

SUMMARY OF RECOMMENDATIONS

(final draft, 25 September 2007)

DENR/FAO/ITTO REGIONAL WORKSHOP ON IMPROVING FOREST LAW COMPLIANCE AND GOVERNANCE IN SOUTHEAST ASIA

11-13 September 2007, Hyatt Hotel, Manila, Philippines

INTRODUCTION

The Southeast Asian regional workshop on improvement forest law compliance and governance was held in Manila, Philippines during 11-13 September 2007, co-sponsored by the Food and Agriculture Organization of the United Nations (FAO) and the International Tropical Timber Organization (ITTO). The Philippine Department of Environment and Natural Resources (DENR) hosted the event, which was attended by 51 representatives from concerned government agencies, civil society/NGOs, private sector and regional/international organizations. Participants came from 10 countries in the region, as well as 14 regional/international organizations.

The workshop aimed to promote multi-stakeholder dialogue and the exchange of views among countries in Southeast Asia on the challenges related to improving forest law compliance and governance, and to agree on tangible and deliverable actions to enhance progress on the ground.

The workshop reiterated the aspirations and high-level commitment of the Bali Ministerial Declaration in September 2001 to address illegal logging and its associated trade, and took stock of the ongoing initiatives carried out by the East Asia Forest Law Enforcement and Governance (EA-FLEG) process, ASEAN Secretariat, Asia Forest Partnership, the EU-FLEGT Action Plan, FAO and ITTO. Recognizing the need for effective collaboration and coordination to improve forest law enforcement and governance, the participants called for greater commitment from all stakeholders to implement concrete actions on the ground.

TOWARDS A HOLISTIC STRATEGY

Any strategy aimed at addressing the problems of illegal activities must be holistic and include a wide range of policy, legal, institutional and technical options designed to:

- Rationalize the policy and legal framework;
- Build institutional capacity for law enforcement and governance; and
- Improve knowledge and information about the forest resources and sector.¹

These three key elements of an integrated strategic approach to improve forest law compliance and governance formed the framework for the workshop structure and process. Accordingly, the participants were able to identify the major obstacles to improving compliance and governance, formulate concrete recommendations and next steps to surmount these barriers, and specify the roles of different stakeholders in implementing the recommended actions.

¹ FAO and ITTO. 2005. *Best practices for improving law compliance in the forest sector*. FAO Forestry Paper 145, Rome.

Effectively implementing these recommendations would lead to concrete results, for example, in the form of arrest, prosecution and conviction of major large-scale illegal loggers and/or corrupt government officials along with seizure and forfeiture of all ill-gotten wealth from illegal logging. This would serve as a powerful deterrent to forest criminal activities.

IDENTIFYING CHALLENGES AND FORMULATING RECOMMENDATIONS

Concerning the three strategic elements, the workshop participants highlighted the following general needs and actions:

1. ***Policy and legal framework.*** Foremost is the need for commitment by governments to review and amend outdated laws, then equitably enforce them. There is also a need to review conflicting laws and enhance coherence by harmonizing laws at the national and sub-national levels. In view of inadequate coordination among countries in the region, including transboundary issues, mechanisms for regional collaboration need to be enhanced.
2. ***Institutional capacity.*** To strengthen the institutional capacity for better forest law compliance and governance, multi-stakeholder processes should be established to develop mechanisms to ensure transparency, avoid conflicts of interest and monitor performance within the broader good governance concept and framework. Regional and international organizations (e.g., ITTO, FAO and CIFOR) are urged to support these processes.
3. ***Knowledge and information.*** In order to effectively implement the workshop recommendations, properly generating and using knowledge and information is crucial. In this context, ensuring relevant and updated information, access, transparency, reliability and timeliness of the data are matters of urgent concern and required action.

For each of the above elements, the participants identified the following key challenges, as well as concrete recommendations for addressing them.

<i>Policy and legal framework</i>	
Challenges:	Recommendations:
<ul style="list-style-type: none"> ○ Inconsistency of forest laws and conflicts with other relevant laws related to: wildlife, local communities/indigenous peoples, environment, customs and trade, banking, and anti-corruption ○ Lack of provisions for joint enforcement of forest laws and other relevant laws ○ Inadequate linkage between forest laws and policy at regional (ASEAN) and national levels; some of these laws are not in line with international commitments ○ Lack of coordination between countries in the region, including government-to- 	<ul style="list-style-type: none"> ○ Arrest, prosecute and convict a major large-scale illegal logger and/or corrupt government official including seizure and forfeiture of all ill-gotten wealth from illegal logging ○ Eliminate illegal logging and trade syndicates ○ Require public disclosure of assets, liabilities and net worth of all government officials ○ Provide mechanism and allocate funds to reward informants ○ Provide whistleblower protection policy and witness protection program

<p>government resolution of transboundary issues, due to differing national priorities and constraints</p> <ul style="list-style-type: none"> ○ Conflict of interests among policy and decision makers (e.g., among politicians, government officials, judges, law enforcers) ○ Lack of consultation by decision makers on important matters affecting sustainable forestry operations and forest-dependent peoples and livelihoods ○ FLEG processes/policy framework not appropriately translated into different levels of governance in each country 	<ul style="list-style-type: none"> ○ Require timber theft prevention plans from all industrial concessionaires ○ Provide legal assistance for forest law enforcers ○ Apply anti-money laundering laws and mechanisms to the forest sector
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<i>Institutional capacity</i>	
<p>Challenges:</p> <ul style="list-style-type: none"> ○ Lack of independent oversight and politicization of vested interests ○ Political interference on matters related to forest resource management (e.g., award of concession areas, appointment and assignment of forest managers and law enforcers) ○ Lack of coordination and institutional arrangements on forest law enforcement and governance within and among countries in the region ○ Lack of funds, incentives and other resources to undertake effective enforcement of forest laws (e.g., purchase of needed tools and equipment, operational expenses and salaries) ○ Inadequate knowledge and information on forest law enforcement, legal processes and prosecution procedures among forest law enforcers, prosecutors and judges 	<p>Recommendations:</p> <ul style="list-style-type: none"> ○ Strengthen forest law compliance and governance through multi-stakeholder processes to develop: <ul style="list-style-type: none"> - country diagnostic format and voluntary reporting and sharing of relevant information and lessons - mechanisms to ensure transparency (and avoid conflicts of interest) like: Ombudsman Committee (PNG & Indonesia), National Forestry Council (Malaysia & Indonesia), Multi-Sectoral Forest Protection Committees (Philippines) ○ Develop reporting format and key performance indicators for FLEG ○ Build on existing initiatives (such as ASEAN and VPA) and conduct diagnostic and peer reviews (among and within countries) on forest law conformity and its implementation ○ Conduct needs assessment at country level for FLEG implementation, and disseminate results through multi-stakeholder processes ○ Build on strategic alliances for effective implementation ○ Use effective audit system to avoid conflicts of interest/monitor performance

Knowledge and information

Challenges:

- Lack of consolidated information system on forest resources and sector
- Insufficient access to forest related information; lack of transparency and accountability
- Limited knowledge on how to effectively apply appropriate laws
- Lack of disclosure of relevant, reliable and timely information among customs, trade and forestry officials
- Inadequate sharing of relevant information on forest law enforcement and governance.
- Limited legal literacy among indigenous/local communities.

Recommendations:

- Harmonize/recognize (where possible) each country's customs and trade laws, rules and regulations related to forestry
- Make available and ensure access to reliable forestry data and information in all countries in the region
- Establish protocol for acquisition, sharing and use of relevant forestry data at the regional level
- Identify how governance weaknesses inside and outside the forest sector create conditions for corruption,
- Promote voluntary country reporting by both producers and consumers on FLEG recommendations and compliance, including best practices
- Undertake more research or assessment to increase knowledge in areas related to forest law compliance
- Conduct appropriate training programs on forest laws, law enforcement and good governance for relevant stakeholders within and outside of forest sector
- Gather relevant data and information that would be required for reformulation of forest policies and laws
- Share information to promote mutual legal assistance for forest law enforcement among countries in the region
- Establish a portal for information & knowledge sharing (e.g., utilize the ASEAN clearinghouse mechanism, mailing list among FLEG partners)
- Promote availability and accessibility of information for traditional/local communities

ROLES OF DIFFERENT STAKEHOLDERS

For implementing the recommended actions, participants identified appropriate roles for different stakeholders: government agencies (executive, legislative and judiciary branches), civil society (community-based organizations, NGOs, academic institutions and private sector), as well as regional and international organizations. This included groups not explicitly represented at the workshop (e.g., community-based organizations, media and academic institutions).

One critical action for all identified stakeholders will be to develop strategic alliances for effective resource mobilization to support the implementation of future actions. This alliance-building process will include:

- Industry and NGOs working together to promote corporate social responsibility (CSR) approaches;
- Governments providing appropriate budget allocations;
- Donor communities supporting and supplementing government budget allocations, especially for transitional arrangements and capacity building; and
- Governments initiating regular auditing and reporting on FLEG allocations in relation to needs assessment target; this should be done through multi-stakeholder processes.

TIMEBOUND ACTIONS AND NEXT STEPS

The participants also identified a series of time-bound actions and next steps, which require diligent follow-up and action by the identified stakeholders. These include:

1. ***Encourage governments to make explicit commitments.*** To push for government commitments to recommended actions at upcoming meetings regarding FLEG, including:
 - The 29th ASEAN Ministers on Agriculture and Forestry Conference to be held in Bangkok (September 2007), in which a ministerial declaration or statement on EA-FLEG is expected to be issued; and
 - The Second EA-FLEG Ministerial Meeting anticipated sometime in 2008.
2. ***Develop and test guidelines for country-level diagnostics and lesson learned.*** To be developed by the end of 2008 by an regional institution (e.g., EA-FLEG Secretariat), taking into account the existing initiatives and country priorities. To be tested on a voluntary basis by the Philippines and other countries by the end of 2009.
3. ***Develop mechanisms to ensure transparency and avoid conflicts of interest.*** Recommended actions include:
 - International organizations (e.g., ITTO, FAO, CIFOR, RECOFTC/VERIFOR, WRI, Transparency International) to develop, collate and share information on lessons learned on transparency from various countries – by the end of 2008;
 - International organizations to support workshops to develop guidelines on national transparency framework – by the end of 2009; and
 - Each country commits to prepare national transparency framework – by 2010.

CONCLUDING STATEMENT

In view of the rapid regional and global changes taking place, the persistent and attendant problems associated with ensuring good governance and sustainable development, and the evolution of new and emerging forestry issues – particularly those related to mitigating climate change – and their implications for poverty reduction and livelihoods of forest-dependent stakeholders, the participants urge the timely and full implementation of the workshop recommendations at the national and regional levels.

Moreover, the participants recognize the need to engage the active involvement of other concerned stakeholders – such as the media, policy analysts, and legal experts – in the implementation of the identified actions.

ACKNOWLEDGEMENTS

Finally, the participants wish to warmly acknowledge and thank DENR for the efficient organization and hosting of this workshop, as well as the warm hospitality extended to all. The contributions of FAO and ITTO are highly appreciated. Contributions of the other resource persons, invited guests as well as facilitators are also gratefully acknowledged.